

CLERK'S OFFICE U.S. DISTRICT COURT
AT ROANOKE VA. - FILED

SEP 09 2008

JOHN F. CORCORAN, CLERK
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Case 5:04-cr-30075-GEC Document 65 Filed 09/09/08 Page 1 of 3 Pageid#: 142

that, with limited exceptions not applicable here, “[a] court may not modify a term of imprisonment once it has been imposed.” A defendant may claim relief under § 2255 on grounds that: (1) the sentence was imposed in violation of the Constitution or laws of the United States, (2) the court was without jurisdiction to impose the sentence, (3) the sentence was in excess of the maximum authorized by law, or (4) the sentence is otherwise subject to collateral attack. See Hill v. United States, 368 U.S. 424, 426-27 (1962). Because Coleman alleges that his sentence was imposed in violation of the Constitution or laws of the United States, the court believes that the motion must be construed as one filed pursuant to § 2255.

Court records indicate, however, that defendant previously filed a motion that the court construed and addressed, without objection from Coleman, as a § 2255 motion concerning this same conviction and sentence. See Case No. 5:08cr80055. This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). As the defendant offers no indication that he has obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court must dismiss his current action without prejudice.² For the reasons stated herein, the court will dismiss Coleman’s § 2255 motion.

²To obtain certification from the Fourth Circuit, the defendant must submit a copy of the § 2255 motion to the Court of Appeals, along with a motion requesting certification for the district court to review a successive § 2255 motion. See 28 U.S.C. § 2244. Defendant may write to request a form and instructions for filing this motion at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.

The Clerk of the Court is directed to send copies of this memorandum opinion and accompanying order to the parties.

ENTER: This 9th day of September, 2008.

A handwritten signature in black ink, appearing to read "John C. Conrad". The signature is written in a cursive, flowing style.

United States District Judge